

REMARKS

This invention relates to *inter alia* pre-emergence herbicidal compositions, which comprise at least one post-emergence herbicide and carrier selected from the group consisting of fuller's earth, aerogels, high molecular weight polyglycols and polymers based upon acrylic acids and methacrylic acid and copolymers thereof, as well as to a method of using a post-emergence herbicide in a pre-emergence manner. Applicants discovered that if a post-emergence herbicide were formulated with specific types of carriers, one could use the post-emergence herbicide pre-emergently.

Entry of this Amendment is requested as it is directly responsive to the outstanding Advisory Action and does not add new matter that requires further consideration and/or search, and places the application in condition for allowance.

The Examiner is thanked for the indication that claims 14 to 16 would be allowable if claim 16 were placed in independent form and that claim 17 is allowed. This Amendment makes claim 14 an independent claim and cancels the rejected claims. Applicants are making these changes to advance prosecution and not for reasons related to patentability. Applicants believe that the subject matter contained in claims 1 to 13 is patentable and intend to file a divisional application directed to this subject matter.

Pursuant to 37 C.F.R. 1.136(a), Applicants petition the Assistant Commissioner to extend the time period to file a response by four (4) months, i.e., up to and including February 1, 2004. A check for \$1,370.00 (1,480.00 - \$110.00) is enclosed to cover the cost of the petition. It is believed that no further fee is required. If, however, an additional fee is due, the Assistant Commissioner is authorized to charge such fee, or credit any overpayment, to Deposit Account 50-0320.

Applicants thank the Examiner for indicating that claim 17 was allowable and that claims 14-16 would be allowable if rewritten in independent form. Accordingly, this Amendment rewrites claim 14 in independent form and therefore does not affect the doctrine of equivalents. Claim 15 depends from claim 14, and claim 16 depends from claim 15. Therefore, Applicants respectfully urge reconsideration and withdrawal of the objection.

Claims 1-9 were rejected under 35 U.S.C. 103(a) for allegedly being unpatentable over Masayuki et al, EP 204146 ("Masayuki"), and Langley et al, JP 58113101 ("Langley"). In view of the cancellation of claims 1 to 9, it is urged that the rejection is moot and should be withdrawn.

In view of the foregoing it is urged that the present claims are in condition for allowance and an early notice to that effect is solicited. However, should the Examiner be of a different opinion, it is requested that he telephone the undersigned before issuing an Advisory Action in order to discuss any outstanding issues.

Respectfully submitted,

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